



AF/3626
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/473,136	
	Filing Date	December 28, 1999	
	First Named Inventor	Bergert, Thomas F.	
	Art Unit	3626	
	Examiner Name	A. Kalinowski	
Total Number of Pages in This Submission	22	Attorney Docket Number	

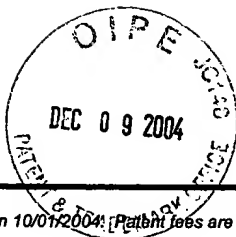
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<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
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Date	December 6, 2004	Reg. No.	

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Typed or printed name	Thomas F. Bergert	Date	December 6, 2004

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Effective on 10/01/2004, Patent fees are subject to annual revision.

FEE TRANSMITTAL

For FY 2005

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 170

Complete if Known

Application Number 09/473,136
Filing Date Dec. 28, 1999
First Named Inventor Bergert, Thomas F.
Examiner Name A. Kalinowski
Art Unit 3626
Attorney Docket No. _____

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit Card ☐ Money Order

☐ Deposit Account ☐ None

Deposit Account _____

Deposit Account _____

The Director is hereby authorized to: (check all that apply)

- ☐ Charge fee(s) indicated below
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☐ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17
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FEE CALCULATION

1. BASIC FILING FEE

Fee Description	Fee (\$)	Small Entity Fee (\$)	Fee Paid(\$)
Utility Filing Fee	790	395	_____
Design Filing Fee	350	175	_____
Plant Filing Fee	550	275	_____
Reissue Filing Fee	790	395	_____
Provisional Filing Fee	160	80	_____

Subtotal (1) \$ _____

FEE CALCULATION (continued)

2. EXTRA CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20	18	9
Each independent claim over 3	88	44
Multiple dependent claims	300	150
For Reissues, each claim over 20 and more than in the original patent	18	9
For Reissues, each independent claim more than in the original patent	88	44

Total Claims _____ Extra Claims _____ Fee (\$) _____ Fee Paid (\$) _____

_____ - 20 or HP = _____ x _____ = _____
HP = highest number of total claims paid for, if greater than 20

Indep. Claims _____ Extra Claims _____ Fee (\$) _____ Fee Paid (\$) _____

_____ - 3 or HP = _____ x _____ = _____
HP = highest number of independent claims paid for, if greater than 3

Multiple Dependent Claims _____ Fee (\$) _____ Fee Paid (\$) _____

Subtotal (2) \$ _____

3. OTHER FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)	Fee Paid(\$)
1-month extension of time	110	55	_____
2-month extension of time	430	215	_____
3-month extension of time	980	490	_____
4-month extension of time	1,530	765	_____
5-month extension of time	2,080	1,040	_____
Information disclosure stmt. fee	180	180	_____
37 CFR 1.17(q) processing fee	50	50	_____
Non-English specification	130	130	_____
Notice of Appeal	340	170	_____
Filing a brief in support of appeal	340	170	<u>170</u>
Request for oral hearing	300	150	_____
Other: _____	_____	_____	_____

Subtotal (3) \$ 170

SUBMITTED BY

Signature

Thomas F. Bergert

Registration No.
(Attorney/Agent)

Telephone 703.627.9908

Name (Print/Type)

Thomas F. Bergert

Date Dec. 6, 2004

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[illegible]

Examiner: A. Kalinowski

Art Unit: 3626

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BRIEF ON APPEAL

170.00 OP

(1) Real Party in Interest

Thomas F. Bergert of Arlington, Virginia is the owner and applicant of this patent application, and the real party in interest.

(2) Related Appeals, Interferences and Judicial Proceedings

There are no appeals, interferences or judicial proceedings related to this patent application serial no. 09/473,136.

(3) Status of Claims

Claims 1-9, 11, and 13-23 are pending in the application.

Claims 1-9, 11, and 13-23 are finally rejected.

Claims 1-9, 11, and 13-23 are being appealed.

Claims 10 and 12 have been canceled without prejudice.

Each of claims 1-9, 11 and 13-23 are shown in the Appendix attached to this Appeal Brief.

(4) Status of Amendments

Appellant has filed no amendments subsequent to the final rejection contained in the Office Action mailed May 7, 2004.

(5) Summary of Claimed Subject Matter

The present invention simplifies the reservation process for users of recreational facilities by providing multiple users simultaneous access to reservation information for multiple facilities. The present invention also facilitates reservation filling for recreational facilities by exposing would-be participants to available reservations at multiple facilities, as opposed to merely providing available reservation information for a single facility at a time. A user of the present invention can attempt to narrow the field of available reservations at multiple facilities using non-facility specific search requests, for example. By not being required to request available selection options for a specific facility, one at a time, the present invention provides greater efficiencies to the user.

Once a user has reviewed available reservations, the present invention allows him or her to make a selection and proceed to notify potential event partners. Notified potential partners can be individuals known to the originator of the reservation, or individuals falling within a specific player profile as selected by the originating user, for example. Partners can be accepted into the group outing on a first-come, first-served basis, or based on the decision of the user originating the reservation. In order to avoid having to actively monitor participant responses and for other reasons, the individual originating the reservation may choose to notify more individuals than there are open slots for joining the group outing. The user is thus provided with the ability to arrange an outing with the knowledge of all of the available venue options, selecting and communicating at least one of the known-available options to potential partners for an event to thereby fill an outing reservation having a limited capacity. The user originating the reservation as well as the notified potential playing partners benefit from the certainty of playing venue and other details provided by

the present invention. Recreational facilities also benefit by filling their inventory of reservations, up to the capacity of each reservation, much more readily and with less effort on the part of the facility.

Independent claim 1 finds support, for example, in the specification on page 3, lines 2-11, from page 4, line 6 to page 11, line 7, and in Figs. 1, 2, 3 and 5. Independent claims 17, 18 and 21 find support, for example, in the specification on page 3, lines 2-11, from page 4, line 6 to page 11, line 7, in Figs. 1, 2, 3 and 5, in the specification of the priority provisional application serial no. 60/114,113 filed December 29, 1998, from page 14, line 17 to page 15, line 13, and in Figs. 1, 5 and 6 thereof.

Regarding the means-plus-function elements identified in independent claim 18, appropriate support for each structure element is found, for example, as follows:

- i. “means for providing simultaneous access to reservation information for a plurality of recreational facilities to a plurality of participants”

See Fig. 1 which shows client(s) 20, network 12, server system 10, and see the description in the specification from page 4, line 6 to page 7, line 12.

- ii. “means for receiving a non-facility specific request pertaining to a plurality of facilities for at least one selection option”

See Fig. 1 which shows client(s) 20, network 12, server system 10 and see the description in the specification on page 7, lines 10-14 and on page 8, lines 20-23.

iii. “means for retrieving and transmitting, based on said received request, at least one selection option pertaining to at least one available reservation, said selection option including a number of individual openings available for said reservation”

See Fig. 1 which shows client(s) 20, network 12, server system 10 and see the description in the specification on page 7, lines 12-17.

iv. “means for a first participant to select a desired reservation from said reservation information for a plurality of recreational facilities”

See Fig. 1 which shows client(s) 20, network 12, server system 10 and see the description in the specification on page 7, lines 18-19.

v. “means for notifying a number of individuals of said reservation, said number of individuals being greater than said number of openings available”

See Fig. 1 which shows client(s) 20, network 12, server system 10 and see the description in the specification from page 7, line 19 to page 8, line 19. See also, for example, the specification of the priority provisional application serial no. 60/114,113 filed December 29, 1998, from page 14, line 17 to page 15, line 13.

(6) Grounds of Rejection to be Reviewed on Appeal

All of the presently pending claims stand rejected under 35 USC 103(a).

Claims 1-3, 5, 9, 11 and 13 stand rejected under 35 USC 103(a) as being unpatentable over Davies et al. (U.S. Pat. No. 5,596,636, hereafter “Davies”), in view of Durand et al. (U.S. Pat. No. 6,272,467, hereafter “Durand”), the “Teemaster” reference and Henneuse et al. (U.S. Pat. No. 5,963,913, hereafter, Henneuse).

Claims 14 and 16 stand rejected under 35 USC 103(a) as being unpatentable over Davies, Durand, Teemaster and Henneuse as applied to claim 1 and further in view of Zhang et al. (U.S. Pat. No. 6,016,478, hereafter “Zhang”).

Claims 17 and 22 stand rejected under 35 USC 103(a) as being unpatentable over Davies in view of the “GolfAgent” reference, Teemaster, Henneuse and the “Kasavana” reference.

Claims 18 and 19 stand rejected under 35 USC 103(a) as being unpatentable over Davies in view of Zhang, GolfAgent, Teemaster and Henneuse.

Claims 21 and 23 stand rejected under 35 USC 103(a) as being unpatentable over GolfAgent in view of Davies, Teemaster and Henneuse.

The remaining claims 4, 6-8, 15 and 20 are dependent claims which stand rejected under 35 USC 103(a) based on some combination of the above cited references.

(7) Argument

Applicant believes the claims as currently pending are defined so as to overcome the references of record. Within the context of each independent claim as a whole, Applicant submits that elements of novelty and non-obviousness exist in allowing a user to submit a single non-facility specific request for available reservation information from a plurality of facilities, and make a

selection from one or more known-available reservation options retrieved and presented to the user, then communicating that selection to potential event partners, whether by selecting the potential partners based on a particular profile element (as in independent claim 1) or by delivering the notice to a greater number of participants than there are available openings (as in independent claims 17, 18 and 21). Independent claim 1 further incorporates the distinguishing elements of receiving acceptance information from one or more participants and receiving subsequent instructions from the first user to book a reservation for the time, date and facility connected to the selection option.

As stated in the May 7, 2004 Office Action, the grounds for final rejection of each independent claim are based on previously cited references as well as the newly cited Henneuse reference. In independent claims 1, 17 and 18, the Davies et al. reference is cited as the primary reference, while in independent claim 21, the GolfAgent reference is cited as the primary reference.

THE DAVIES ET AL. REFERENCE

The Davies et al. reference relates to a device which can connect to a single golf course's phone reservation system using a single line telephone (see Fig. 1, col. 3, lines 33-39). The purpose of the Davies et al. device is to replace the user having to call a golf course's phone reservation system by functioning "hands free" and "unattended" when performing the dedicated task (see col. 2 lines 58-61). The Davies et al. device is only capable of accessing a single golf course's reservation system at a time. No choices are provided to the user of the Davies et al. device; rather, the user blindly submits his or her desired preferences (see column 4, lines 20-40). There is thus no teaching of an active selection by the user from available reservation options in Davies et al. Even

further, there is no teaching of receiving a user request for available reservation information, transmitting the available reservation information to the user, and subsequently receiving the user's selection from the available reservation information. Davies teaches a one-way request from the user's device, and a one-way response to the user's device, with no interactivity otherwise. Thus, the Davies et al. reference teaches away from active user selection of available reservation times, as claimed in the present application.

THE GOLFAgent REFERENCE

The GolfAgent reference cited by the Examiner consists of two pages printed out from a website accessible through www.archive.org, purporting to show web pages available on the Internet on March 31, 1997. GolfAgent explicitly describes the selection of a specific golf course, and upon that selection, the user is able to determine what reservations are available at that course. No functionality or working examples of GolfAgent were shown and none appear to exist to further inform the brief disclosure. Further, there is no mention, suggestion or teaching anywhere in the two-page GolfAgent reference of submitting a non-facility specific request for reservation times. The apparent international aim of the GolfAgent reference, as well as the apparent target user as one seeking a "destination" course, further teaches away from providing a golfer with simultaneous results related to a plurality of facilities.

While the Examiner has cited other references for showing elements of the claims admittedly not shown by the Davies and GolfAgent references, the Examiner has admitted that the present claims overcame the 35 USC 103 rejection maintained prior to the final Office Action of

May 7, 2004 (see page 2). The only new reference cited by the Examiner against the present claims in the final Office Action of May 7, 2004 was the Henneuse reference.

THE HENNEUSE REFERENCE

In independent claims 17, 18 and 21, the Henneuse reference is cited in the Office Action of May 7, 2004 for disclosing “a number of openings available for one or more individuals to join said activity” and receiving “indication information including information necessary to notify a number of individuals of said selection” (see May 7, 2004 Office Action, page 13, line 16 to page 14, line 1; page 17, lines 12-19; page 20, line 21 to page 21, line 7). Henneuse is also cited against independent claim 1 for disclosing “receiving acceptance information from at least one other participant...” and subsequently “receiving instructions...to book a reservation for the time and date and facility connected with said selection option” (see May 7, 2004 Office Action, page 6, line 19 to page 7, line 2).

The Henneuse reference describes sending scheduling option information in the form of one or more dates and times (see col. 3, lines 16-20 and col. 5, lines 6-8) to potential event participants in order to determine participant availability for an event. The event information sent to potential participants does not include a *pre-selected, available, venue* reservation. Henneuse only contemplates the venue for an event after determining participant availability and obtaining selection of a time and date by the event scheduler (see col. 4, lines 31-40, col. 6, lines 2-10, and claims 7 and 16). In such a scenario, it is easily foreseeable that a scheduler may have to repeatedly obtain and review participant availability information if it turns out the originally selected time is

not available at the venue. Henneuse even acknowledges that if the preferred venue reservation is not available, the scheduler can be asked to resubmit a confirmation for the event so that a proper venue can be reserved (see col. 4, lines 37-40, and claims 8 and 17).

In contrast, the present invention as claimed allows additional participants to be notified of a known-available reservation which has been selected by a user after receiving availability information from a database holding reservation information for a plurality of facilities, i.e., venues. As such, the user does not suffer from having to return to the participants (or having to review previously collected participant availability information, for that matter) and may proceed to book the reservation with full confidence that it is available. Thus, the outing arrangement process is greatly facilitated for the originating user in the present invention, as is the reservation filling process for the recreational facility.

Applicant submits that the citations to the Henneuse reference in the May 7, 2004 Office Action are not proper and cannot be maintained as a basis for the rejections under 35 USC 103(a). Contrary to the Examiner's assertions, Henneuse does *not* disclose a number of openings available for one or more individuals to join *said activity* and receiving indication information necessary to notify a number of individuals of the user's *selection* (cited against independent claims 17, 18 and 21). In claims 17, 18 and 21, "said activity" refers to an activity from *at least one recreational facility*, and the user's "selection" refers to a selected selection option pertaining to at least one *available reservation*. There is no discussion in Henneuse of a number of openings available in connection with a reservation selection option. There is further no discussion or

suggestion within Henneuse of notifying a number of individuals greater than the number of openings available in connection with a reservation selection option. Additionally, the Examiner has provided no motivation for combining the Henneuse reference with the other references cited in rejecting claims 17, 18 and 21.

Applicant submits that modifying the teaching of Davies by providing a scheduling tool that has no associated reservation, which is both available and selected by the scheduler, at the time scheduling of additional participants occurs, does not teach or suggest the present invention as presently claimed. The Davies reference teaches providing a user with the ability to program a phone to dial in to a specific facility's reservation system with a specifically requested reservation time and receive confirmation of the reservation without having to attend to the phone line. Davies is quite clear in that the user pre-programs the device in Davies with specific desired reservation information to be made effective depending upon whether the desired time and date are available (col. 4, lines 20-30). It would run counter to the logic of the Davies system for it to be able to receive acceptance information from an additional user using a client computer *prior to* the booking of a reservation, because there would be nothing for the additional user to accept.

Further, the Examiner's citation to the Henneuse reference in the May 7, 2004 Office Action is improper in that Henneuse does *not* disclose receiving instructions to book a reservation for the time and date *and facility connected with said selection option*. In claim 1, the reservation being booked relates to a time, date *and facility* connected to the selection option. Applicant submits that

Henneuse does not teach or disclose receiving acceptance information for a selected and known-available reservation at a facility among a plurality of facilities, as claimed in claim 1. It is clear in Henneuse that venue availability is not known at the time participants are notified of possible meeting options. The Examiner's stated motivation for combining the Henneuse reference with the other references cited against claim 1 is the motivation to use accurate availability information to schedule an event. Applicant submits that the availability information in Henneuse is explicitly only time and date information from the participants, and does not include a known-available venue reservation. One combining Davies and Henneuse would still not be able to solve the problems addressed by the presently claimed invention. If one were to receive the participant time-and-date availability information of Henneuse and then schedule a tee time using Davies, the tee time would not be a known available time, and the user may be required to again pre-program their phone as in Davies to request an available reservation.

For a prior art reference to obviate a claimed invention, the reference must suggest or teach the claimed invention. *In re Keller*, 642 F.2d 413 (CCPA 1981).

Accordingly, Applicant submits that the claims as amended are not shown or made obvious by any of the references of record, taken singly or in combination, and are thus allowable over the cited references. The remaining claims are dependent upon one of the amended independent claims and it is submitted that these dependent claims are similarly allowable over the cited references.

(8) Conclusion

The prior art of record, taken singly or in combination, does not teach or suggest the present invention as presently claimed. Accordingly, it is respectfully requested that the Board remand this patent application back to the Examiner with the directive to issue a Notice of Allowance in this matter.

One copy of the appeal brief is being filed, together with the \$170.00 fee required under 37 CFR 1.17(c).

Respectfully submitted,

A handwritten signature in black ink, reading "Thomas F. Bergert". The signature is fluid and cursive, with the first name "Thomas" and last name "Bergert" clearly legible.

THOMAS F. BERGERT
Applicant

Thomas F. Bergert
4436 N. 17th Street
Arlington, VA 22207
Tel. No.: 703.627.9903

Filed: December 6, 2004

Claims Appendix:

1. A method of arranging a recreational outing for participants using a computer, comprising the steps of:

a) providing a database of information including reservation information, said reservation information including at least one selection option, said option including a time and a date for an activity from a plurality of recreational facilities, said database further including profile information for a plurality of said participants, said profile information for each of said plurality of participants including at least one element;

b) receiving a non-facility specific request pertaining to a plurality of facilities for at least one selection option;

c) retrieving and transmit, based on said received request, at least one selection option pertaining to at least one available reservation;

d) receiving a selection from a first one of said participants of a selection option;

e) receiving indication information including a selection from said first participant of at least one element corresponding to an element of said profile information of at least one additional participant;

f) determining a subset of said participants from said database of participants having said profile element;

g) communicating said selection to said subset of participants;

h) receiving acceptance information from at least one other participant using a client computer and

i) after receiving said acceptance information in step h), receiving instructions from said first participant using a client computer to book a reservation for the time and date and facility connected with said selection option.

2. The method of claim 1 wherein said element is an element taken from the group of elements consisting of: a hobby, an occupation, an age range, a gender, an income level.
3. The method of claim 1 wherein said indication information includes an electronic mail address of at least one other participant.
4. The method of claim 1 wherein said step of communicating said selection includes providing information as to the time, date, and facility location of said selection.
5. The method of claim 1 wherein said step of communicating said selection includes providing information as to the identity of said first participant.
6. The method of claim 1 wherein said step of communicating said selection includes providing information as to the directions to the physical location of said recreational facility.
7. The method of claim 1 wherein said database of reservation information is received from said at least one recreational facility using a client application and includes a pricing schedule.

8. The method of claim 7 wherein said pricing schedule includes prices which vary depending upon the hour of the reservation selection, and wherein said step of communicating said selectino includes providing information as to the time and price of said selection, said price being determined by the associated time of the selection.
9. The method of claim 1 wherein said activity is golf and said at least one recreational facility is a golf course facility.
11. The method of claim 1 including the further step of communicating said booked reservation to said facility connected with said selection option.
13. The method of claim 1 including the further step of communicating said booked reservation to said facility connected with said selection option.
14. The method of claim 1 including, after step d), the step of creating an event reply page responsive to said selection, said event reply page having available slots, and wherein step g) includes sending an electronic mail message to said at least one other participant providing a link to the event reply page.
15. The method of claim 14 wherein said event reply page includes at most three available slots.
16. The method of claim 14 including the further step of receiving one or more reply

confirmations from said at least one other participant using a client application.

17. A computer system for arranging a recreational outing for a plurality of participants, comprising:

a network to which a first one of said participants and at least one other participant have access and across which said provider and said participants can communicate information using respective client systems; and

a server application operable to communicate information across the network, said server application operable to:

provide simultaneous access to said participants to a database of information including reservation information related to a plurality of recreational facilities, said reservation information including at least one selection option, said option including a time and a date for an activity from at least one recreational facility, and a number of openings available for one or more additional individuals to join said activity;

receive a non-facility specific request pertaining to a plurality of facilities for at least one selection option;

retrieve and transmit, based on said received request, at least one selection option pertaining to at least one available reservation;

receive a selection from said first participant using a client computer of a selection option; and

receive indication information from said first participant using a client computer, said indication information including information necessary to notify a number of individuals of said selection, said number of individuals being greater than said number of available openings.

18. A computer system for arranging a recreational outing for a plurality of participants, comprising:

means for providing simultaneous access to reservation information for a plurality of recreational facilities to a plurality of participants;

means for receiving a non-facility specific request pertaining to a plurality of facilities for at least one selection option;

means for retrieving and transmitting, based on said received request, at least one selection option pertaining to at least one available reservation, said selection option including a number of individual openings available for said reservation;

means for a first participant to select a desired reservation from said reservation information for a plurality of recreational facilities; and

means for notifying a number of individuals of said reservation, said number of individuals being greater than said number of openings available.

19. The computer system of claim 18 further including means for said first participant to book said selected reservation.

20. The system of claim 18 further including means for confirming acceptance by one or more of

said number of individuals, wherein said means for confirming acceptance is limited to receiving at most three acceptances.

21. A method of arranging a recreational outing for participants using a computer, comprising the steps of:

- a) providing a database including reservation information for a plurality of recreational facilities, said database further including selection information, said selection information including a time and a date for an activity at at least one of said recreational facilities;
- b) providing a plurality of said participants with simultaneous access to said reservation information and said selection information;
- c) upon receiving a request for said selection information from a first one of said participants at a client computer, retrieving and transmitting to said first participant selection information pertaining to at least one available reservation, said selection information including a number of openings available for one or more additional individuals to join said reservation;
- d) receiving a selection from said first participant from said selection information in c); and
- e) receiving indication information from said first participant including information necessary to notify a number of individuals of said selection, said number of individuals being greater than said number of available openings.

22. The system of claim 17 wherein said server is further operable to communicate said selection to said number of individuals.

23. The method of claim 21 including the further step of:

(f) communicating said selection to said number of individuals.